

1 Stephen M. Doniger (SBN 179314)
2 stephen@donigerlawfirm.com
3 Scott A. Burroughs (SBN 235718)
4 scott@donigerlawfirm.com
5 Howard S. Han (SBN 243406)
6 hhan@donigerlawfirm.com
7 DONIGER / BURROUGHS
8 603 Rose Avenue
9 Venice California 90291
10 Telephone: (310) 590-1820

11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 STAR FABRICS, INC., a California
15 Corporation,

16 Plaintiff,

17 v.

18 CHOCOLATE USA, a business entity of
19 form unknown; LA VIDA FASHION, a
20 business entity of form unknown; WAVE
21 FASHION, LLC, an Arizona Limited
22 Liability Company; FINESSE APPAREL,
23 INC., a California Corporation; SOLO
24 WEAR, INC., a California Corporation; and
25 DOES 1 through 10,

26 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

27
28 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
this honorable Court for relief based on the following:

JURISDICTION AND VENUE

1
2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
7 1400(a) in that this is the judicial district in which a substantial part of the acts and
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 4. Plaintiff STAR FABRICS, INC. is a corporation organized and existing
11 under the laws of the State of California with its principal place of business located
12 at 1440 East Walnut Street, Los Angeles, California 90011.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant
14 CHOCOLATE USA (“CHOCOLATE”) is a business entity of form unknown, with
15 its principal place of business located at 1150 Crocker Street, Los Angeles, CA
16 90021, and is doing business in and with the state of California.

17 6. Plaintiff is informed and believes and thereon alleges that Defendant LA
18 VIDA FASHION (“LA VIDA”) is a business entity of form unknown, with its
19 principal place of business located at 3751 Irving Mall Suite 200, Irving Texas
20 75062, and is doing business in and with the state of California.

21 7. Plaintiff is informed and believes and thereon alleges that Defendant
22 WAVE FASHION, LLC (“WAVE”) is a limited liability company organized and
23 existing under the laws of the state of Arizona, with its principal place of business
24 located at 1637 W. Bethany Home Road Phoenix, Arizona 85015, and is doing
25 business in and with the state of California.

26 8. Plaintiff is informed and believes and thereon alleges that Defendant
27 FINESSE APPAREL, INC. (“FINESSE”) is a corporation organized and existing
28

1 under the laws of the state of California, with its principal place of business located
2 at 1025 S. Stanford Ave. Los Angeles, California 90021, and is doing business in
3 and with the state of California.

4 9. Plaintiff is informed and believes and thereon alleges that Defendant SOLO
5 WEAR, INC. (“SOLO WEAR”) is a corporation organized and existing under the
6 laws of the state of California, with its principal place of business located at 410
7 Inland Center Drive, San Bernadino, California 92408, and is doing business in and
8 with the state of California.

9 10. Plaintiff is informed and believes and thereon alleges that Defendants
10 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
11 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
12 or have engaged in one or more of the wrongful practices alleged herein. The true
13 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
14 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
15 by such fictitious names, and will seek leave to amend this Complaint to show their
16 true names and capacities when same have been ascertained.

17 11. Plaintiff is informed and believes and thereon alleges that at all times
18 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
19 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
20 at all times acting within the scope of such agency, affiliation, alter-ego relationship
21 and/or employment; and actively participated in or subsequently ratified and/or
22 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
23 circumstances, including, but not limited to, full knowledge of each violation of
24 Plaintiff’s rights and the damages to Plaintiff proximately caused thereby.

CLAIMS RELATED TO DESIGN NO. 63771

12. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled 63771 (“Subject Design”) which has been registered with the United States Copyright Office.

13. Prior to the acts complained of herein, Plaintiff widely disseminated fabric bearing Subject Design to numerous parties in the fashion and apparel industries.

14. Plaintiff is informed and believes and thereon alleges that following its distribution of Subject Design, FINESSE, SOLO WEAR, CHOCOLATE, WAVE, LA VIDA, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring a design which is substantially similar to Subject Design (hereinafter “Subject Product”) without Plaintiff’s authorization, including but not limited to products sold by

- a. SOLO WEAR under Style No. 4365804F and bearing the label “Finesse,” indicating that it was manufactured by or for FINESSE.
- b. LA VIDA under Cut No. 19083 and bearing the label “chocolate U.S.A.,” indicating that it was manufactured by or for CHOCOLATE.
- c. WAVE under SKU 061406431 and bearing the label “chocolate U.S.A.,” indicating that it was manufactured by or for CHOCOLATE.

15. An image of Subject Design and an exemplar of Subject Product are set forth hereinbelow:

Subject Design



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

16. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Designs.

18. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s), and each of

1 them, has an ongoing business relationship with Defendant retailers, and each of
2 them, and supplied garments to said retailers, which garments infringed Subject
3 Designs in that said garments were composed of fabric which featured unauthorized
4 print designs that were identical or substantially similar to Subject Designs, or were
5 an illegal modification thereof.

6 19. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, infringed Plaintiff's copyright by creating, making and/or developing
8 directly infringing and/or derivative works from Subject Designs and by producing,
9 distributing and/or selling Subject Products through a nationwide network of retail
10 stores, catalogues, and through on-line websites.

11 20. Due to Defendants', and each of their, acts of infringement, Plaintiff has
12 suffered damages in an amount to be established at trial.

13 21. Due to Defendants', and each of their, acts of copyright infringement as
14 alleged herein, Defendants, and each of them, have obtained profits they would not
15 otherwise have realized but for their infringement of Subject Designs. As such,
16 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
17 attributable to the infringement of Subject Designs in an amount to be established at
18 trial.

19 22. Plaintiff is informed and believes and thereon alleges that Defendants, and
20 each of them, have committed copyright infringement with actual or constructive
21 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
22 and continue to be, willful, intentional and malicious.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment as follows:

- 25 a. That Defendants—each of them—and their respective agents and
26 servants be enjoined from importing, manufacturing, distributing,
27

1 offering for sale, selling or otherwise trafficking in any product that
2 infringes Plaintiff's copyrights in Subject Designs;

- 3 b. That Plaintiff be awarded all profits of Defendants, and each of them,
4 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,
5 or, if elected before final judgment, statutory damages as available under
6 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 7 c. That Plaintiff be awarded its attorneys' fees as available under the
8 Copyright Act U.S.C. § 101 et seq.;
- 9 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 10 e. That Plaintiff be awarded the costs of this action; and
- 11 f. That Plaintiff be awarded such further legal and equitable relief as the
12 Court deems proper.

13
14 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
15 38 and the 7th Amendment to the United States Constitution.
16

17 Dated: September 11, 2015

DONIGER/BURROUGHS

18 By: /s/ Stephen M. Doniger
19 Stephen M. Doniger, Esq.
20 Howard S. Han, Esq.
21 Attorneys for Plaintiff
22
23
24
25
26
27
28